

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE SEPTEMBER 11 LITIGATION

WORLD TRADE CENTER PROPERTIES LLC, et al.,

Plaintiffs,

-against-

UNITED AIRLINES, INC., et al.,

Defendants.

WORLD TRADE CENTER PROPERTIES LLC, et al.,

Plaintiffs,

-against-

AMERICAN AIRLINES, INC., et al.,

Defendants.

ALVIN K. HELLERSTEIN, U.S.D.J.:

USDC SDNY
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DATE FILED: 10/22/10

**ORDER GRANTING
PARTIAL RELIEF FROM
JOINT STIPULATION FOR
ACCELERATED BRIEFING**

21 MC 101 (AKH)

08 Civ. 7319

08 Civ. 7322

The WTCP Plaintiffs move for relief from a joint stipulation entered into with the Aviation Defendants under my order of September 21, 2010. The motion is granted to a limited extent.

On July 1, 2010, I approved a settlement between the Aviation Defendants and eighteen property-damage plaintiffs who sued them in the 21 MC 101 Master Calendar. The WTCP Plaintiffs objected to my approval and appealed my decision to the Second Circuit. That appeal contains twenty-one individual cases that have been consolidated. After the WTCP Plaintiffs filed their notice of appeal, certain settling plaintiffs moved for disbursement of their

own settlement funds while the appeal remained pending. The Aviation Defendants agreed to disburse these funds but only if the WTCP Plaintiffs dropped these plaintiffs from the appeal. The WTCP Plaintiffs refused, so I denied the motion. As part of my denial, however, I required the WTCP Plaintiffs and the Aviation Defendants to enter into a joint stipulation setting an accelerated briefing schedule in the Second Circuit for the WTCP Plaintiffs' appeal. Order Denying Uninsured Loss Plaintiffs Motion for Early Disbursement of Settlement Funds, 21 MC 101, Doc. No. 1295 (S.D.N.Y. Sept. 21, 2010). The parties' joint stipulation provides that the WTCP Plaintiffs must file their opening brief by October 29, 2010.

After the parties entered into the joint stipulation, the Aviation Defendants moved in the Second Circuit to dismiss for lack of jurisdiction two of the twenty-one cases noticed for appeal by the WTCP Plaintiffs. The Second Circuit referred the motion to a Motions Panel, to sit November 9, 2010. In view of these developments, WTCP Plaintiffs contend they cannot know which cases to brief until after the motion is decided, and so ask me to allow them to defer filing their opening brief until that point.


I cannot grant the WTCP Plaintiffs' requested relief. To allow the WTCP Plaintiffs to put off filing their opening brief until after the Aviation Defendants' motion is decided could undermine the speediness I deemed necessary to provide fairness to all those involved with the settlement. The Motions Panel is not obligated to render a decision on the Aviation Defendants' motion to dismiss at any particular time, and it may well refer the matter to the Argument Panel, who will hear oral argument and render a decision in its own time.

However, a short enlargement of time is appropriate to avoid prejudice to the WTCP Plaintiffs. I therefore will enlarge the date the WTCP Plaintiffs must file their opening brief from October 29, 2010, to November 2, 2010. All subsequent dates in the stipulation shall be

enlarged by two business days. This Order is subject to review and revision by the Second Circuit, including its Staff Counsel.

The WTCP Plaintiffs should proceed to brief their entire array of consolidated cases. Should the Second Circuit decide the motion to dismiss in the Aviation Defendants' favor, the WTCP Plaintiffs can inform the Argument Panel that those two appeals are no longer before it. Should the WTCP Plaintiffs prevail, they will have already prepared and filed a complete opening brief.

Dated: SO ORDERED.
October 22, 2010
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge